

**LEASE AND VENDOR PERMIT AGREEMENT  
BETWEEN  
MILWAUKEE COUNTY PARKS  
AND  
FERCH'S BEACHSIDE LLC**

This Lease and Vendor Permit Agreement (hereafter called the "Agreement") between MILWAUKEE COUNTY PARKS (hereafter called "County"), and FERCH'S BEACHSIDE LLC (hereafter called "Vendor"), represented by Elizabeth Ferchoff, is entered into effective January 1, 2025. Referenced together, the County and the Vendor are the "Parties" (each a "Party") to this Agreement.

1. PERMITTED USE.

- a. Vendor is exclusively permitted to sell food & beverages, including alcoholic beverages served under a Class B tavern license, watercraft, cabanas, and other recreational equipment, as well as miscellaneous sun notions and supplies, at the areas located at the beach near the shore of Lake Michigan at Grant Park in South Milwaukee, as set forth on Exhibit A (the "Premises"). The concession is a fair-weather operation scheduled to be open daily at hours to be mutually agreed upon between the Parties. The concession is scheduled to be open daily from 11:00 a.m. through 9:00 p.m. Vendor shall not dispense or distribute alcohol to patrons after 9:00 p.m.
- b. Vendor understands that, seasonally, County turns off water and winterizes around mid-October and turns on water by mid-May, depending on the weather.
- c. It is the responsibility of Vendor to manage the distribution of alcohol, and the Vendor is fully responsible for any incidents involving alcohol sold by Vendor at the Premises. Vendor shall monitor the service of alcoholic beverages, make sure no one under 21 is drinking alcohol, and refuse service to people who appear to be intoxicated or using poor judgment in their drinking. Vendor will ensure that no alcoholic beverages are consumed outside of the area set forth on Exhibit A. Vendor understands and agrees that Vendor's operation is not to be classified as a beer garden, and Vendor shall not market it as such.

2. TERM.

The Initial Term of this Agreement shall commence on the Effective Date and expire on December 1, 2029 (the "Initial Term").

3. RENEWAL TERMS.

Provided that no material event of default then exists, Vendor and County may, upon mutual written agreement, have the option to extend this Agreement on the following terms:

- A. An additional two (2) year renewal term ending on December 31, 2031 (the "First Extension Term". This First extension term requires a capital investment of ten thousand (\$10,000) dollars.

- B. An additional two (2) year renewal term ending on December 31, 2033 (the “Second Extension Term”. This second extension term requires an capital investment of ten thousand (\$10,000) dollars.
- C. A final one (1) year extension term ending on December 31, 2034 (the Final Extension Term”. This final extension term requires a capital investment of five thousand (\$5,000) dollars.

Vendor may exercise its renewal option for approval by providing written notice to County on or before October 1, 2028 for the first extension term, October 1, 2030 for the second extension term, and October 1, 2032 for the final extension term.

The capital investments made during the extension terms shall follow the guidelines and requirements outlined in section 4 and 14a below.

4. PREMISES IMPROVEMENTS.

Vendor at its own direction, cost and expense, shall completely replace the Premises roof, fully renovate the restrooms and completely repaint the exterior of the building (the “Initial Premises Improvements”) on or before December 31, 2025, in accordance with the following:

- a. all work shall be completed in a first-class manner by reputable, licensed contractors, selected and supervised by Vendor and approved in advance by County;
- b. all contracts shall be in the name of Vendor, but submitted to County for review and approval, before execution;
- c. County shall review and approve the construction contracts or provide written objections within 21 days after submission by Vendor—approvals will be deemed to have been given if County fails to provide written objections within 21 days after submission;
- d. each contractor shall apply for and receive (within 21 days after complete submission) a County right of entry permit, which includes a detailed plan and schedule for completion of the work; and
- e. each contractor shall provide evidence of insurance coverage meeting current County standards, which names both Vendor and County as additional insureds.

Vendor, at its option and expense, may also complete additional improvements to the Premises at any time during the Initial Term or the Extension Term in accordance with the above requirements and Section 14a, below. Vendor is willing to advance the full total cost of the Initial Premises Improvements, provided that all approved expenditures for the roof replacement only (but not the remaining Initial Premises Improvements) advanced by Vendor, without interest, shall be recovered by offset against the Commission payable in accordance with Section 5 of this Agreement.

5. CONSIDERATION.

- a. In lieu of rent, the Vendor shall pay the County a commission in an amount equal to fifteen percent (15%) of all Gross Receipts on sales of alcoholic beverages, and ten percent (10%) of Gross Receipts on all other sales (the "Commission"). "Gross Receipts" shall mean the total of all receipts (cash, checks, and credit cards) derived from the sale of all food, beverage and merchandise associated with the recreational and concession activities, less sales tax.
- b. The Commission payments shall be made monthly on or before the 15<sup>th</sup> day of the month for each prior month. Commission payments shall be accompanied by a detailed sales report and a calculation of the Commission due, in the format set forth on Exhibit B attached to this Agreement (a "Sales/Commission Report"). No later than thirty (30) days after the close of the season, Vendor shall submit a detailed annual Sales/Commission Report, reconciling all payments made to the County during the season.
- c. Notwithstanding subsections a. and b. above, Vendor be permitted to offset the total cost of the roof replacement only (but not the remaining Initial Premises Improvements), without interest, against all Commission payments due to County. Based on the actual total amount of the roof replacement and past Commission payments by Vendor to County under their prior agreement, County acknowledges that the Commission offsets for the roof replacement cost could continue past the initial year. For each month that a Commission offset is claimed for the roof replacement cost, Vendor shall be required to submit a Sales/Commission Report with a calculation of the Commission otherwise due and the remaining balance of the roof replacement cost after the offset.
- d. Once Commissions are again payable after the total cost of the roof replacement has been fully offset, Vendor shall make payments on or before the 15<sup>th</sup> day of each month for the prior month's Gross Receipts. Checks shall be made payable to: **Milwaukee County Treasurer** and mailed or delivered to: Milwaukee County Parks, 9480 Watertown Plank Rd., Wauwatosa, Wisconsin, 53226.

#### 6. RIGHTS RESERVED TO COUNTY.

County reserves the right to award a contract with one (1) or more additional vendors to provide other concessionable items in other areas of the Park not less than 500 feet from the Premises. County further reserves the right to operate its own concession area not less than 500 feet from the Premises during any and all events held in its Parks.

#### 7. PERMITS, LICENSES, AND OTHER COSTS.

Vendor and its agents are to procure, maintain, and pay the fees for all appropriate federal, state, and local licenses and permits required for its activities.

#### 8. DIGGING AND STAKING.

Digging or staking of tents and other infrastructure is prohibited without prior written consent of the County. If approved by County, both Digger's Hotline and the Milwaukee County Maintenance Hotline must be contacted and the location of all buried utilities marked prior to the placing of any tent stakes or other items below ground. County Maintenance Hotline fee is five hundred dollars (\$500.00).

9. COUNTY APPROVAL OF ITEMS TO BE SOLD.

The Parks Director or his/her designee maintains the right to prohibit the sale or rental of any item that he/she deems to be inappropriate or otherwise within the Milwaukee County Parks System. Vendor agrees to comply with the County's prohibitions including the sale of gum and glass bottles and to operate subject to the Milwaukee County Parks System's rules and policies.

10. SOFT DRINK SALES.

If Vendor chooses to sell soft drinks, bottled water, or isotonic beverages, Vendor is required to operate subject to the Milwaukee County Parks System's exclusive non-alcoholic beverage contract.

11. RESTROOMS/GRAFFITI.

Vendor is responsible for maintaining the Premises and surrounding areas as set forth on Exhibit A in a state of cleanliness and repair to prevent injury to the public. Vendor is responsible for continuous cleaning of the Premises. Vendor shall ensure that the restrooms are clean and ready to use at the time the restrooms are opened at 9:00 AM. Cleaning shall include pick up of all trash and litter on all parts of the Premises. Vendor shall unlock the restrooms at 9 a.m., weather permitting, and lock the restrooms by 10 p.m. each day. Vendor shall post public signage at restrooms indicating: (a) restroom opening and closing times, (b) that the Vendor is responsible for maintaining the restrooms, including ensuring that the restrooms fully stocked and clean when they are opened in the morning, (c) Vendor contact information, and (d) emergency contact information, including where patrons can go for help. Vendor shall permit public access to the restrooms during all hours of operation and provide routine maintenance and ongoing cleaning of the public restrooms during Vendor's operations. Vendor shall also provide all restroom supplies and cleaners as needed. Vendor shall be billed for County's services if it fails to adhere to this Section. Vendor shall ensure that all graffiti is removed from the Premises within twenty-four (24) hours during the operating season. Failure to comply will result in Milwaukee County removing graffiti and billing Vendor \$150 per hour per employee to remove.

12. GARBAGE AND LITTER:

Vendor is responsible for the collection and disposal of all trash, litter and garbage associated with its activities. Vendor shall supply all garbage bags and containers. Vendor may contract with a commercial waste service and, upon coordination with County, place a garbage container in a designated area of the parking lot.

13. BEACH GROOMING:

County shall make reasonable effort depending on weather and other outside circumstances to groom the beach at least once per week throughout the concession season unless reasonably prohibited by weather. County staff will find a mutually agreed upon date with the Vendor for grooming. Vendor shall ensure that Vendor property does not impede or interfere with beach grooming equipment.

14. MAINTENANCE & REPAIR.

a. Improvements: Provided that Vendor can provide proof of 100% of cost of improvements, Vendor may make capital improvements to the existing building

infrastructure in addition to the Initial Premises Improvements. Vendor and County shall mutually agree upon the specific design services, improvements and/or fixtures to be purchased or made with Vendor's investment, as well as the location for such improvements or installation of such fixtures. All such improvements made pursuant to this Section shall be owned by County, and Vendor agrees to execute such documents as County may reasonably request evidencing County's ownership interest in such improvements. County reserves the right to require Vendor to remove any unapproved modifications and restore the site to pre-modified conditions.

- b. Vendor's Obligations for Maintenance and Minor Repairs: Vendor shall maintain the Premises in good order, including interior and exterior cleaning and janitorial services to the Premises and any environs utilized by Vendor. Vendor shall be responsible for renovating and updating the Premises to ensure the facility is operating in a manner compliant with appropriate codes, laws, and regulations. Vendor shall make "minor repairs" to all plumbing, HVAC, electrical and lighting (including the replacement of light bulbs), door latches and locks, windows and plate glass/plastic, and signage, where such repairs or replacement are to the existing items in place within the Premises or to those installed by Vendor. Replacements shall be made in-kind with Milwaukee County Parks-approved materials and standards. "Minor repairs" are herein defined as any singular repair or replacement whose cost is less than Five Hundred Dollars (\$500) for each instance.
- c. Vendor's Obligations for Major Repairs: Vendor shall maintain in good order and make "major repairs" to any plumbing, HVAC, electrical and lighting, door latches and locks, windows and plate glass/plastic, signage, and structural elements whose repair or replacement are necessitated by the negligence or willful misconduct of Vendor, its employees, invited guests, or patrons. "Major repairs" are herein defined as any singular repair or replacement whose cost is Five Hundred Dollars (\$500) or greater for each instance. Replacements shall be made in-kind with Milwaukee County Parks-approved materials and standards. All repairs shall be done by licensed tradespersons, with oversight by the County's trades personnel. Vendor may contract with the County for repairs on a time and materials basis.
- d. County's Obligations for Minor Repairs: County shall have no obligation to make minor repairs to the Premises. Obligations for minor repairs shall be as indicated in Sections 13b.
- e. County's Obligations for Major Repairs: County shall maintain in good order and provide for all major repairs to all structural components of the Premises, including the roof and roof systems (gutters and downspouts), foundation, exterior walls, interior structural walls, and all utility systems, including plumbing, HVAC, and electrical, except to the extent such areas are damaged due to the negligence or misconduct of Vendor, its agents or employees. County shall also repair all parking areas, public sidewalks, and all utility systems, except to the extent such areas are damaged due to the negligence or misconduct of Vendor, its agents or employees.
- f. Timeliness of Repairs: Each Party shall perform its obligations under Sections 13 hereunder promptly after learning of the need for such repairs, but in any event within thirty (30) days of the occurrence or notice provided by one Party to the other. If County fails to make such repairs within thirty (30) days after Vendor's notice (except when the repairs require more than thirty (30) days for performance and County commences the repair within thirty (30) days and diligently pursues the repair to completion), Vendor may, at its option, undertake such repairs and deduct

the reasonable cost thereof from the Commissions next falling due. If Vendor fails to make such repairs for which it is obligated within thirty (30) days after County's notice, and such failure constitutes a health or safety hazard to the public, or has the potential to cause further damage to the Premises, then the County shall have the right to make the repair with its own staff or contract with a third party to make the repair, and charge all reasonable costs associated with making the repair to Vendor (including salary and benefits if done with County's own staff).

15. RIGHT-OF-ENTRY PERMIT.

Vendor shall, at all times, obtain a Right-of-Entry Permit from County before performing any ground disturbing activities in any part of the Premises. The Permit to disturb or dig in the Premises requires fees for inspection. Any Vendor failing to obtain a Permit to disturb or dig in the Premises is subject to penalty. The Permit to disturb or dig in the Premises can be obtained at the Milwaukee County Department of Parks, Recreation and Culture, 9480 Watertown Plank Rd. Wauwatosa, Wisconsin, 53226.

16. DISPOSAL OF FATS, OILS AND GREASE ("FOG"):

- a. Prevention of FOG Build-up: Vendor shall keep leftover grease and food scraps from going down the drains. Fats, oils, and grease ("FOG") poured down drains can build up in pipes and sewers and cause sewage backups, which can lead to raw sewage overflows. Large amounts of FOG should be collected and stored in drums or barrels for recycling. Small amounts can be poured into a sealable container and thrown away. Vendor should scrape or wipe FOG from dishware and cookware and put it in the trash.
- b. GCD Installation: Vendor shall have a grease control device ("GCD") meeting all applicable requirements of Wisconsin Administrative Code NR 113 and State of Wisconsin Department of Commerce 82.34 standards. The GCD shall be installed by a plumber licensed in the State of Wisconsin prior to the Vendor's occupancy of the Premises. The GCD shall be installed and connected so that it may be readily accessible for inspection, cleaning and removal of FOG at any time.
- c. Maintenance:
  - i. The GCD shall be maintained at the Vendor's sole expense. Maintenance shall include the complete removal of all contents, including floating material, wastewater and settled solids. The GCD shall be cleaned no less frequently than once every six (6) months. Grease interceptors shall be pumped out completely when the total accumulation of FOG, including floating solids and settled solids, reaches twenty-five percent (25%) of the overall liquid volume. Frequency of cleaning will depend upon the type of food prepared and how well grease is managed in the kitchen.
  - ii. Vendor is responsible for service or suction cleaning of the grease trap/ejector pit. To avoid costly sewer/pump repairs the grease trap and ejector pit should be pumped to remove grease and foreign objects from entering the plumbing system. The recommended schedule is for servicing before the season in April and once more halfway through the summer or around July 4th.
- d. Waste Disposal: FOG removed from a grease interceptor shall be disposed of in a solid waste disposal system or by a certified grease hauler. FOG removed from a grease interceptor shall be disposed of at a facility permitted to receive such wastes.

No FOG shall be returned, decanted or discharged to any grease interceptor or into any portion of any private or County sanitary sewer system or water treatment facility.

- e. Posting of Signage: The Vendor shall post County signage provided to the Vendor regarding FOG disposal in a clear and prominent place in the kitchen at the Premises. County signage shall be posted above the sink at the Premises if such posting is possible and if such posting would not obscure the signage.
- f. Inspection: County shall have the right of entry into the Premises at any time to make inspections, observation, measurements, sampling, testing, or records review of the GCD to ensure that the Vendor is in compliance with this Section 24. Operational changes, maintenance and repairs requested by the County shall be implemented by Vendor at Vendor's expense.
- g. Record Keeping: Vendor shall retain and make available for County's inspection and request all records of all cleaning and/or maintenance pertaining to the GCD during the Term. Cleaning and/or maintenance records shall include, at a minimum: (a) the dates of cleaning/maintenance; (b) the names and business addresses of each company or person performing the cleaning/maintenance; (c) the volume of waste removed in each cleaning/maintenance; (d) information regarding each FOG disposal, including location of the waste disposal site and a copy of the original manifest from the hauler, if applicable; and (e) description of any repairs needed to the GCD, date repairs performed and name of repairer. The rights and obligations set forth under this provision shall survive the termination of the Agreement for a period of three (3) years.

17. SITE RESTORATION:

Both Vendor and County shall together participate in a pre-season and post-season inspection of the Premises, including the turf. Vendor shall be responsible for any actual documented physical damage to the Premises caused by Vendor, its employees, agents, representatives, and guests. Within five (5) days of the discovery of any such damage, the Premises shall be restored to the satisfaction of the Parks Director or his designee. If damage is not restored by the Vendor after five (5) days of the discovery and the County elects to restore such damage, then the County shall have the right to restore the damage with its own staff or contract with a private company to restore the damage, and charge all reasonable costs directly associated with performing the restoration work, to the Vendor (including salary and benefits if done with the County's own staff).

18. VEHICLES.

Except for Vendor's lightweight utility vehicle used for cleaning, trash removal, grooming, moving equipment and other servicing needs on and near the Premises, as well as other delivery, vendor and contractor vehicles, vehicles shall not be operated upon County owned sidewalks, grass, athletic fields, walkways, trails or surrounding areas not included in the Premises without prior written permission from County.

19. SIGNAGE.

All proposed banners, signage and advertising on or within the Premises, temporary or portable structures, must be approved by the Parks Director or his/her designee.

20. REMOVAL OF EQUIPMENT AND SUPPLIES.

Upon expiration or termination of this Agreement for any reason, Vendor and its agents shall remove, at its costs, all of its machines, supplies, equipment, displays, and related items from the Premises within twenty-one (21) days of the expiration or termination date, and shall restore the Premises to its prior condition, satisfactory to the Parks Director.

21. SECURITY.

Vendor shall be prohibited from employing armed security within the Premises during the term of this Agreement. Unarmed security officers shall be permitted only upon the written approval of the Parks Director.

22. INSPECTION BY COUNTY.

County shall at all reasonable times have the right to enter into and upon the Premises to examine and inspect the condition thereof; provided, however, such entry shall be done in such a manner that it does not unreasonably interfere with the conduct of Vendor's Permitted Use of the Premises.

23. INTEREST.

a. Late Payments. Unless waived by County Board of Supervisors, Vendor shall be responsible for payment of interest on amounts not remitted in accordance with this Agreement. The rate of interest shall be the statutory rate in effect for delinquent County property taxes (one-percent (1%) per month or fraction of a month) as described in Wisconsin statutes section 74.47(1). The obligation for payment and calculation thereof shall commence upon the day following the due dates established herein.

b. Penalty. In addition to the interest described above, Vendor may be responsible for payment of penalty on amounts not remitted in accordance with this Agreement, as may be determined by County. The penalty shall be the statutory rate in effect for delinquent County property taxes (0.5% per month, or fraction of a month) as described in Milwaukee County ordinance section 6.06(1) and Wisconsin statutes section 74.47(1) and 74.47(2). The obligation for payment and calculation thereof shall commence upon the day following the due dates established herein.

c. Audit Results. If, as a result of an audit, additional amounts are disclosed to be due and owing to the County, interest and penalty shall be calculated thereon in accordance with the above method. Vendor shall remit to the County any additional amounts identified due and owing for the audit including interest and penalty thereon within thirty (30) days following receipt of the audit report by the County..

d. Non-Exclusivity. This provision permitting collection of interest and penalty by the County on delinquent payments is not to be considered the County's exclusive remedy for Vendor's default or breach with respect to delinquent payment. The exercise of this remedy is not a waiver by the County of any other remedy permitted under this Agreement, including but not limited to termination of this Agreement.

24. COUNTY RIGHTS OF ACCESS AND AUDIT.

Vendor shall allow the County Audit Services Division and department contract administrators (collectively referred to as "Designated Personnel") and any other party



the Designated Personnel may name, with or without notice, to audit, examine and make copies of any and all records of Vendor related to the terms and performance of this Agreement for a period of up to three years following the date of last payment, the end date of this Agreement. Any subcontractors or other parties performing work in accordance with this Agreement will be bound by the same terms and responsibilities as Vendor. All subcontracts or other agreements for work performed on this Contract will include written notice that the subcontractors or other parties understand and will comply with the terms and responsibilities. Vendor and any subcontractors understand and will abide by the requirements of Section 34.09 (Audit) and Section 34.095 (Investigations concerning fraud, waste, and abuse) of the Milwaukee County Code of General Ordinances.

25. INSURANCE.

a. Vendor Insurance. County assumes no responsibility for any loss or damage to Vendor's personal property while in use or stored at or on the Premises. Vendor shall maintain comprehensive liability, workers compensation and automobile liability insurance as required below. Vendor shall provide the County with evidence of said coverages in the following minimum amounts.

Type of Coverage	Minimum Limits
Commercial General Liability	
Bodily Injury and Property Damage (incl. Personal Injury, Fire Legal, Contractual & Products/Completed Operations)	\$1,000,000 Per Occurrence \$1,000,000 General Aggregate
Automobile Liability	
Bodily Injury & Property Damage All Autos-Owned, non-owned and/or hired Uninsured Motorists	\$1,000,000 Per Accident Per Wisconsin Requirements
Wisconsin Workers' Compensation or Proof of All States Coverage	Statutory, if applicable
Employers' Liability	\$100,000/\$500,000/\$100,000, if applicable

b. Additional Insured. Milwaukee County, as its interests may appear, shall be named as an additional insured and be afforded a thirty (30) day written notice of cancellation or non-renewal. Disclosure must be made of any non-standard or restrictive additional insured endorsement, and any use of non-standard or restrictive additional insured endorsement will not be acceptable. A certificate indicating the above coverages shall be submitted for review and approval by the County for the Term of this Agreement. Coverages shall be placed with an insurance company licensed by the State of Wisconsin and rated "A" per Best's Key Rating Guide.

- c. Additional Information. Additional information as to policy form, retroactive date, discovery provisions and applicable retentions shall be submitted to County, if requested, to obtain approval of insurance requirements. Any deviations, including use of purchasing groups, risk retention groups, etc., or requests for waiver from the above requirements shall be submitted in writing to the County for approval prior to the commencement of activities under this Agreement.
- d. Risk Management Review. The insurance requirements contained within this Agreement are subject to periodic review and adjustment by the County Risk Manager.
- e. County Insurance. County shall, at its expense, obtain and carry at all times during the term of this Agreement insurance against fire and other hazards as are covered in an extended coverage endorsement policy for the full replacement cost of the building and all other improvements located on the Premises.
- f. Casualty Restoration. In the event that the building or any other improvement on the Premises is damaged or destroyed by fire or other casualty covered by the County's required insurance coverage, the County shall restore the damaged or destroyed improvement(s) within ninety (90) days after the date of damage or destruction to the condition which existed immediately prior to such casualty event. This Agreement shall continue in full force and effect and Vendor shall also repair or restore any and all merchandise, furnishings, furniture, equipment and all alterations, additions and leasehold improvements made by Vendor to Vendor's Site, to the condition which existed immediately prior to such casualty event. If County shall fail to complete the repairs and restoration within ninety (90) days after the occurrence of the damage or destruction, Vendor may, at any time thereafter, upon five (5) days prior written notice to County, terminate this Agreement. If Vendor is unable to operate its restaurant business in the Restaurant Premises or is restricted from using any portion of the License Property during such repairs and restoration, Rent shall abate proportionately until such repairs and restoration are completed and Vendor fully re-opens all of its business operations.

**26. NON-DISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION PROGRAMS.**

- a. There shall be no discrimination against or segregation of any person, or group of persons, on account of gender, age, race, color, religion, creed, national origin or ancestry in the use of the Premises, and Vendor (or any person claiming under or through Vendor) shall not establish or permit any such practice or practices of discrimination or segregation with reference to the Premises. In accordance with Section 56.17 of the Milwaukee County General Ordinances and Title 41 of the Code of Federal Regulations, Chapter 60, Vendor certifies to the County as to the following:
  - i. Non-Discrimination. Vendor certifies that it will not discriminate against any employee or applicant for employment because of race, color, national origin, age, sex or handicap which includes, but is not limited to, the following: employment, upgrading, demotion or transfer, recruitment,

or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. Vendor will post in conspicuous places, available for employment, notices setting forth the provisions of the non-discriminatory clause. Attached hereto as Exhibit C is an Equal Opportunity Certificate that shall be executed and delivered by Vendor simultaneously with the execution and delivery of the Agreement.

- ii. Affirmative Action Program. Vendor certifies that it will strive to implement the principles of equal employment opportunity through an effective affirmative action program which shall have as its objective to increase the utilization of women, minorities and handicapped persons and other protected groups, at all levels of employment in all divisions of its work force, where these groups may have been previously under-utilized and under-represented. Vendor also agrees that in the event of any disputes as to compliance with the aforementioned requirements, it shall be its responsibility to show that it has exercised good faith efforts to meet all requirements.
- iii. Affirmative Action Plan. Vendor certifies that if it has 50 or more employees, it has filed or will develop and submit a written Affirmative Action Plan. Current Affirmative Action Plan, if required, must be filed with any of the following: The Office of Federal Contract Compliance Programs, the State of Wisconsin, or the Milwaukee County Audit Services Division, 633 W. Wisconsin Ave, 9<sup>th</sup> Floor, Milwaukee, WI, 53203.
- iv. Non-Segregated Facilities. Vendor certifies that it does not and will not maintain or provide segregated facilities for its employees, and that it does not permit its employees to perform their services at any location under its control where segregated facilities are maintained.
- v. Reporting Requirement. When applicable, Vendor certifies that it will comply with all reporting requirements and procedures established in Title 41 Code of Federal Regulations, Chapter 60.
- vi. Compliance. Vendor certifies that it is not currently in receipt of any outstanding letters of deficiencies, show cause, probable cause, or other such notification of noncompliance with EEO regulations.

## 27. INDEMNITY.

- a. General Indemnity. To the fullest extent permitted by law, Vendor shall indemnify the County for, and hold it harmless from all liability, claims and demands on account of personal injuries, property damage and loss of any kind whatsoever, including workers' compensation claims, which arise out of or are in any manner connected to the Premises, based on any injury, damage or loss being caused by any wrongful, intentional, or negligent acts or omissions of the Vendor, its agents, or employees. Vendor shall, at its own expense, investigate all claims and demands, attend to their

settlement or disposition, defend all actions based thereon and pay all charges of attorneys and other costs and expenses arising from any such injury, damage or loss, claim, demand or action.

- b. Environmental Indemnification. Vendor shall, to the fullest extent provided for under any environmental laws, rules and regulations, be responsible for any required repair, cleanup, remediation or detoxification arising out of any Hazardous Materials brought onto or introduced into the Premises or surrounding areas by Vendor, or its agents. Vendor hereby agrees to indemnify, defend and hold County harmless from and against any and all liabilities, costs, expenses (including attorney fees), damages (including but not limited to clean-up, remediation or detoxification of) or any other losses caused by its introduction of any such Hazardous Materials into or onto the Premises and any Hazardous Materials brought onto or introduced into the Premises as described below.
- c. "Hazardous Materials" as the term is used herein shall mean any substance: (i) the presence of which requires investigation or remediation under any Federal, State or local statute, regulation, ordinance, order, action or policy; or (ii) which is or becomes defined as a "hazardous waste" or "hazardous substance" under any Federal, State or local statute, regulation, ordinance, or amendments thereto.

## 28. PARTNERSHIP.

Nothing contained in this Agreement shall constitute or be construed to create a partnership or joint venture between County or its successors or assigns and Vendor or its successors or assigns. In entering into this Agreement, and in acting in compliance herewith, Vendor is at all times acting and performing as an independent contractor, duly authorized to perform the acts required of it hereunder.

## 29. ASSIGNMENT.

Vendor may not assign this Agreement, in whole or in part, or sublease any part of the Premises without the prior written approval of the Parks Director.

## 30. TERMINATION.

County may terminate this Agreement: (a) if Vendor fails to comply with any provision in this Agreement, and such failure continues for thirty (30) days after a written notice from County setting forth in reasonable detail the nature of such default (except when repairs or other remedial activity require more than thirty (30) days for performance and Vendor commences the repair within thirty (30) days and diligently pursues the repair or remediation to completion); (b) if Vendor ceases to do business as a going concern, ceases to pay its debts as they become due, or admits in writing that it is unable to pay its debts as they become due, or becomes subject to any proceeding under any federal or state bankruptcy law, or a custodian or trustee is appointed to take possession of, or an attachment, execution or other judicial seizure is made with respect to, substantially all of Vendor's assets or interest in this Agreement; (c) Vendor fails to operate as a concessionaire at the Premises prior to Labor Day, 2025; or (d) in the event that the Milwaukee County Board of Supervisors, via official action and resolution, effects to close or repurpose the facility at the Premises during the Term. If County terminates the Agreement within the initial five (5) years of the Term pursuant to Section (d) above,

County agrees to buy out one hundred percent (100%) of Vendor's documented roof replacement cost, which have not been offset against Commissions due, pursuant to Sections 4 and 5, above. In addition, If County terminates the Agreement pursuant to Section (d) above, County shall make best efforts to relocate the concession to another Milwaukee County Parks location reasonably mutually acceptable to Vendor and County. No buy-out by the County shall include any investment Vendor has made in furniture or equipment.

### 31. PROHIBITED PRACTICES.

- a. Conflict of Interest. Vendor during the period of this Agreement shall not hire, retain or utilize for compensation any member, officer, or employee of County or any person who, to the knowledge of Vendor, has a conflict of interest.
- b. Code of Ethics. Vendor hereby attests that it is familiar with Milwaukee County's Code of Ethics which states, in part, "No person may offer to give to any County officer or employee or his immediate family, and no County officer or employee or his immediate family, may solicit or receive anything of value pursuant to an understanding that such officer's or employee's vote, official actions or judgment would be influenced thereby."

### 32. NOTICES.

All notices with respect to this Agreement shall be in writing. Except as otherwise expressly provided in this Agreement, a notice shall be deemed duly given and received upon delivery, if delivered by hand, or three days after posting via US Mail, to the party addressed as follows:

To Vendor:

Ferch's Beachside LLC  
Attn: Elizabeth Ferchoff  
5600 Badger Court  
Greendale, WI 53129

To County:

Milwaukee County Parks  
Attn.: Executive Director  
9480 W. Watertown Plank Rd.  
Wauwatosa, WI 53226

Either party may designate a new address for purposes of this Agreement by written notice to the other party.

### 33. MISCELLANEOUS.

This Agreement shall be interpreted and enforced under the laws and jurisdiction of the State of Wisconsin. This Agreement constitutes the entire understanding between the parties and is not subject to amendment unless agreed upon in writing by both parties hereto. Vendor acknowledges and agrees that it will perform its obligations hereunder in compliance with all applicable state, local or federal law, rules and regulations and orders.

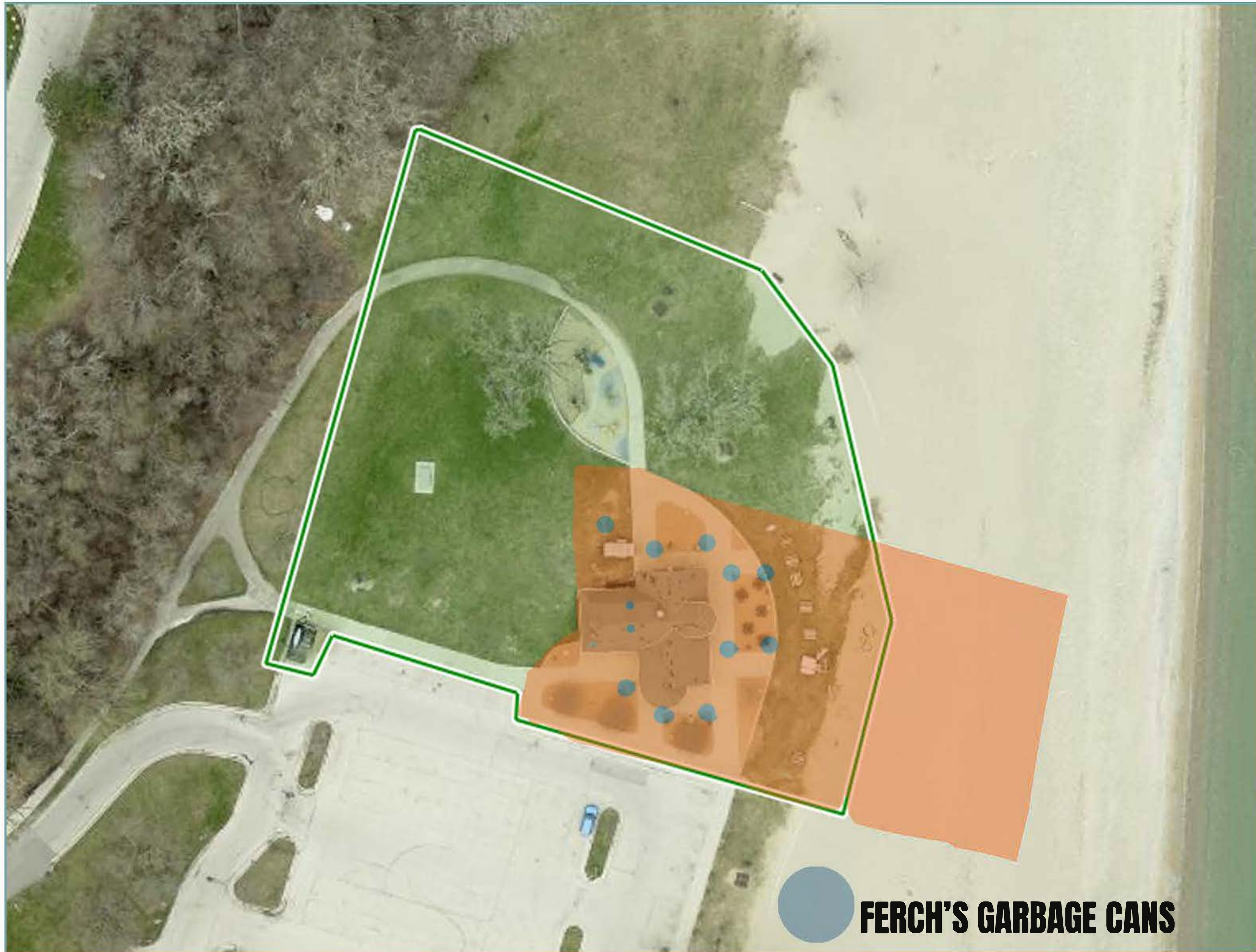
***Signature Pages Follow***





2023 Amended Premises Ferch's Beachside

label2



Legend

Aerial Photos

2022 Aerial

- Red: Band\_1
- Green: Band\_2
- Blue: Band\_3

- FERCH'S PREMISE
- GARBAGE CANS

Notes

Version 6/6/2023



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.



## FERCH'S BEACHSIDE - MONTHLY SALES REPORT

DATE	HRS OF OPERATION	WEATHER	FOOD & FOUNTAIN ITEMS - GROSS SALES	CRAFT BEER - GROSS SALES	TOTAL
AUGUST		GOOD			
8/1/2024	11AM TO 9PM		1115	\$280.00	\$1,395.00
8/2/2024	11AM TO 9PM		4559.95	\$1,742.00	\$6,301.95
8/2/2024	11AM TO 9PM		4761.1	\$1,734.00	\$6,495.10
8/4/2024	11AM TO 9PM		4500.05	\$1,640.00	\$6,140.05
8/5/2024	11AM TO 9PM		1660.5	\$568.00	\$2,228.50
8/6/2024	11AM TO 9PM		395.8	\$32.00	\$427.80
8/7/2024	11AM TO 9PM		2569.35	\$566.00	\$3,135.35
8/8/2024	11AM TO 9PM		2251	\$388.00	\$2,639.00
8/9/2024	11AM TO 9PM		3480	\$2,032.00	\$5,512.00
8/10/2024	11AM TO 9PM		3565.25	\$790.00	\$4,355.25
8/11/2024	11AM TO 9PM		3801.7	\$1,074.00	\$4,875.70
8/12/2024	11AM TO 9PM		2320.35	\$464.00	\$2,784.35
8/13/2024	11AM TO 9PM		2578.8	\$696.00	\$3,274.80
8/14/2024	11AM TO 9PM		2607.1	\$370.00	\$2,977.10
8/15/2024	11AM TO 9PM		0	\$0.00	\$0.00
8/16/2024	11AM TO 9PM		2359.5	\$716.00	\$3,075.50
8/17/2024	11AM TO 9PM		2348.9	\$752.00	\$3,100.90
8/18/2024	11AM TO 9PM		3244.8	\$840.00	\$4,084.80
8/19/2024	11AM TO 9PM		2564.3	\$670.00	\$3,234.30
8/20/2024	11AM TO 9PM		2608	\$608.00	\$3,216.00
8/21/2023	11AM TO 9PM		1788.75	\$324.00	\$2,112.75
8/22/2024	11AM TO 9PM		2718.3	\$410.00	\$3,128.30
8/23/2024	11AM TO 9PM		4923.95	\$2,624.00	\$7,547.95
8/24/2024	11AM TO 9PM		4228.1	\$874.00	\$5,102.10
8/25/2024	11AM TO 9PM		4976.15	\$1,180.00	\$6,156.15
8/26/2024	11AM TO 9PM		2959.95	\$928.00	\$3,887.95
8/27/2024	11AM TO 9PM		1892.5	\$360.00	\$2,252.50
8/28/2024	11AM TO 9PM		619.8	\$32.00	\$651.80
8/29/2024	11AM TO 9PM		1265.85	\$274.00	\$1,539.85



